

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

NICHOLAS D. GOOSBY,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. CIV-12-1202-M
	)	
ANITA TRAMMELL, Warden,	)	
	)	
Respondent.	)	

**ORDER**

On February 5, 2013, United States Magistrate Judge Gary M. Purcell issued a Supplemental Report and Recommendation in this action brought pursuant to 28 U.S.C. § 2254, seeking a writ of habeas corpus. The Magistrate Judge recommended that respondent's Motion to Dismiss be granted and the Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 be dismissed as time-barred. The parties were advised of their right to object to the Supplemental Report and Recommendation by February 25, 2013. On February 22, 2013, petitioner filed his objections.

Having carefully reviewed this matter de novo, the Court finds that petitioner has not sufficiently shown actual innocence to warrant equitable tolling of the limitations period. The Court further finds that petitioner has not presented any evidence of circumstances beyond his control which prevented his timely filing of a habeas petition. Accordingly, the Court finds that equitable tolling of the limitations period is not warranted and the Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 should be dismissed.

Therefore, the Court:

- (1) ADOPTS the Supplemental Report and Recommendation [docket no. 25] issued by the Magistrate Judge on February 5, 2013;
- (2) GRANTS respondent's Motion to Dismiss [docket no. 18]; and

- (3) DISMISSES the Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 as time-barred.

**IT IS SO ORDERED this 27th day of February, 2013.**

  
VICKI MILES-LaGRANGE  
CHIEF UNITED STATES DISTRICT JUDGE